

J643RICC

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

13 CR 356 (RMB)

5 VAUGHN RICHMOND,

6 Defendant.

7 -----x  
8 New York, N.Y.  
9 June 4, 2019  
12:45 p.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 District Judge  
13

14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the  
Southern District of New York

17 BRETT KALIKOW

Assistant United States Attorney

18 EDWARD SAPONE

19 Attorney for Defendant

20 ALSO PRESENT:

U.S. Probation Officer Ana Maria Gonzalez, EDNY

21 U.S. Probation Officer Lisa Faro, SDNY  
22  
23  
24  
25

J643RICC

1 THE COURT: In anticipation of today's status hearing,  
2 I have reviewed the letter that I received from probation  
3 dated -- it's recent. Mr. Sapone, did you date your letter?  
4 May 24, 2019.

5 I thought we would go ahead with the hearing today  
6 just to get caught up on where things stand for Mr. Richmond,  
7 and maybe we could start with probation.

8 MS. GONZALEZ: Mr. Richmond has paid his restitution  
9 up to date. He apparently he paid today again, making him  
10 current even through June.

11 THE COURT: Is that our number, \$700 a month?

12 MS. GONZALEZ: Yes, that's right. And everything else  
13 is -- his job remains, he works at the same job he's had since  
14 last year. He apparently just moved, since he lost his  
15 apartment to foreclosure.

16 THE COURT: The job, I remember we talked about it the  
17 last time, but I can't remember what it is that he's doing.

18 MS. GONZALEZ: I'll let Mr. Richmond's attorney speak  
19 to that if that's okay, your Honor.

20 THE DEFENDANT: Malvasia Management Group, real estate  
21 development.

22 THE COURT: I think I remembered they were  
23 headquartered in Manhattan; is that right?

24 THE DEFENDANT: That's correct.

25 THE COURT: So tell me, how do you spell the name of

J643RICC

1 that management group?

2 THE DEFENDANT: M-A-L-V-A-S-I-A Management Group.

3 THE COURT: How is that going?

4 THE DEFENDANT: It's still pretty much the same. It's  
5 going fine.

6 THE COURT: Well, in terms of what exactly are you  
7 doing there?

8 THE DEFENDANT: My job is to evaluate, as we say,  
9 underwrite the real estate opportunity in terms of whether or  
10 not it's financially viable, and then to advise on structuring  
11 and offer support in terms of helping to get to a close or  
12 renovation, whichever is necessary, or both.

13 THE COURT: So any closings that you're responsible  
14 for?

15 THE DEFENDANT: Well, we're working on -- North  
16 Carolina fell out but it looks like it's coming out. It looks  
17 like that opportunity is coming back. We're working on one  
18 project here in Brooklyn on Fulton Street. There's a new  
19 opportunity that was just presented last night, not too far on  
20 West 24th Street here in New York City. There is -- what else.

21 THE COURT: Any that you closed? That you actually  
22 closed in deals actually?

23 THE DEFENDANT: No, we haven't actually closed. No,  
24 we have not. Not at this point.

25 THE COURT: What about renovations, any of those

J643RICC

1 happen?

2 THE DEFENDANT: We have participated in four small  
3 renovations. Small renovation projects.

4 THE COURT: You get a salary?

5 THE DEFENDANT: I get a salary.

6 THE COURT: If I might ask, how much do you get paid?

7 THE DEFENDANT: 42,000.

8 THE COURT: Are you in good standing with your  
9 employer?

10 THE DEFENDANT: Yes.

11 THE COURT: So in other words, your salary is not  
12 contingent on deals actually closing.

13 THE DEFENDANT: No, it's not. He understands that --  
14 no, it's not contingent on deals closing.

15 THE COURT: So, it is a full-time job I take it?

16 THE DEFENDANT: It is.

17 THE COURT: Does that help you, probation, that  
18 information?

19 MS. GONZALEZ: Sure.

20 THE COURT: Okay. Let me just look at the judgment  
21 here. So the supervision is, is it essentially light  
22 supervision or you see him often or how does that work?

23 MS. GONZALEZ: Generally he reports to the office  
24 every month, although he missed in May. He generally reports  
25 to the office every month, so I see him on a monthly basis.

J643RICC

1 THE COURT: In person?

2 MS. GONZALEZ: Hmm-hmm.

3 THE COURT: Anybody want to add anything to  
4 probation's point of view?

5 MR. KALIKOW: No.

6 THE COURT: How about the defense. Mr. Sapone?

7 MR. SAPONE: Not on that issue, your Honor.

8 THE COURT: On any issue?

9 MR. SAPONE: May Mr. Richmond sit down?

10 THE COURT: Sure.

11 MR. SAPONE: So your Honor, as counsel, I always want  
12 the Court to be satisfied with a client's progress and to feel  
13 that whatever is in place is appropriate. And I try to balance  
14 that against the client's wishes, if I can assist in making a  
15 defendant feel that his voice is heard.

16 So, here, as it relates to the therapy, it's my  
17 impression that the Court probably would want Mr. Richmond to  
18 continue with therapy. He goes once a week on Thursdays. But  
19 in discussions with Mr. Richmond, it's become clear to me that  
20 his opinion would be that it's not very helpful, and he's  
21 working every day, and what he does every Thursday is he stops  
22 work to get in the car and rush 12 miles in traffic. And  
23 between the therapy session itself, and the traveling, it's  
24 around four hours a week that he feels is not very productive.  
25 So I wonder --

J643RICC

1 THE COURT: What does the therapist say?

2 MR. SAPONE: Well, the truth is, this just came up  
3 now, 10 minutes ago, so I don't know what he would say.

4 THE COURT: "She."

5 MR. SAPONE: She would say, excuse me.

6 THE COURT: So that's a little bit by the seat of the  
7 pants.

8 MR. SAPONE: Yes.

9 THE COURT: For my point of view. So, do you have an  
10 opinion? My personal view is if you are seeking termination, I  
11 would need to hear from the therapist as to why termination is  
12 a good thing or what's been accomplished. Everything that's  
13 been accomplished, that kind of thing before I could make a  
14 determination like that.

15 MR. SAPONE: Then would I write to the Court or wait  
16 until the next appearance.

17 THE COURT: You could do either one. You could also  
18 talk to probation about it, see how they feel. So when you  
19 write, if in your letter you could also share their insight and  
20 their position.

21 MR. SAPONE: Sure. So prior to me speaking with the  
22 therapist, which I will do, and thank you for that, I did run  
23 it by probation. It is my understanding that they would not be  
24 opposed to termination of therapy, and that in fact, in the  
25 beginning when Mr. Richmond was first evaluated, it was the

J643RICC

1 opinion of the evaluator that he didn't need the therapy. But  
2 I will speak to the therapist, get back to probation, and share  
3 what I learned.

4 THE COURT: And maybe you could get from the therapist  
5 what they've accomplished in the therapist's view. Does she  
6 think that it's necessary, etc.

7 MR. SAPONE: Thank you.

8 THE COURT: You bet.

9 Anything else anybody wants to cover?

10 MR. KALIKOW: Your Honor, I would just add, so as your  
11 Honor knows, Mr. Richmond does have monthly restitution  
12 obligations, which as the probation officer has noted, are now  
13 current. The pattern to this point has generally been that  
14 payments have been made very close to -- sometimes in advance  
15 or shortly after conferences have been scheduled.

16 THE COURT: Now there's a shocker.

17 MR. KALIKOW: Yes. It is perhaps to be expected.  
18 Mr. Richmond's supervision, as I understand it, is scheduled to  
19 terminate on October 10, 2019. In order to continue to ensure  
20 that the restitution payments are being made appropriately, we  
21 would ask for a status conference to be set close to but in  
22 advance of that date, perhaps towards the end of September or  
23 early October. And to the extent that Mr. Richmond is current  
24 at that point, we would request to be able to write to your  
25 Honor to request that the conference be adjourned.

J643RICC

1 THE COURT: Okay. Let me give you a followup date.  
2 Remind me, if you would, this is probably a task for the  
3 government, if Mr. Richmond stays current with his restitution,  
4 where would he be at October of 2019 in the broader scheme of  
5 things? His restitution amount is a pretty big number.

6 MR. KALIKOW: Yes, your Honor. I don't have the  
7 calculation in front of me of the total amount of restitution  
8 paid to date.

9 THE COURT: That's probably a small portion of  
10 \$200,000.

11 MR. KALIKOW: That would be our expectation, your  
12 Honor.

13 THE COURT: So you should be planning a visit with the  
14 financial litigation unit as we approach the October date,  
15 assuming everything is going well. I was going to say  
16 September 17 at 10:30. Hopefully it will be the final  
17 conference.

18 MR. SAPONE: That's good for us, your Honor.

19 THE COURT: Okay. Is that all right for everybody  
20 else?

21 MS. GONZALEZ: Yes, your Honor. Thank you.

22 MR. KALIKOW: Yes, Judge. Thank you. The 17th at  
23 10:30, your Honor.

24 THE COURT: Yes.

25 MS. GONZALEZ: That appearance is contingent upon --



J643RICC

1           THE COURT: To me it's not contingent. To me it is an  
2 appearance. So, if a reason for it not happening shows up, I  
3 guess I'll read about it. But I think you should plan on being  
4 here. Okay? Great. Nice to see everybody.

5           MR. SAPONE: Nice to see, your Honor. Thank you very  
6 much.

7           THE COURT: By the way, just to your point, I wasn't  
8 being facetious when you said the payments come in proximity to  
9 the scheduled conferences. In point of fact -- and you also  
10 should probably know I hold these conferences in most every  
11 supervised release situation, and one of the reasons is that,  
12 for whatever reason, it has some effect in most instances one  
13 way or another on performance during supervision. So, that's  
14 point number one.

15           Point number two, this is really for Mr. Richmond's  
16 benefit particularly, and Mr. Sapone. So, supervised release  
17 is not a penalty phase. It's not like a term of incarceration  
18 which has some punitive aspects to it. Supervised release is  
19 the period when people make productive development which has  
20 led them away from the reason that we all got here in the first  
21 place, and it's designed to be helpful. So, and lots of  
22 people, when it comes to therapy, because therapy is not an  
23 uncommon aspect of supervision, particularly in my cases,  
24 people do say that, oh, it's a pain in the neck to get there,  
25 got to get in the car and all that stuff. Sometimes that's

J643RICC

1 because it's not so easy to be in therapy, and to be on time,  
2 be regular, and also communicative with the therapist. So, a  
3 lot of people find it uncomfortable, actually, which is  
4 actually one of the things that it probably is supposed to be,  
5 at least for some period of time.

6 MR. SAPONE: Yes.

7 THE COURT: So, but anyway, so that is one of the  
8 reasons I do have these periodic conferences, is not only to  
9 see how things are going, but hopefully to help things continue  
10 to go in the right direction.

11 MR. SAPONE: Yes. So before I call the therapist, I  
12 think Mr. Richmond and I should spend some time together. Yes.

13 THE COURT: Exactly. Great. Nice to see you,  
14 Mr. Richmond.

15 MR. KALIKOW: Thank you, Judge.

16 (Adjourned)